

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1077

BY RESOURCES AND ENVIRONMENT COMMITTEE

AN ACT

RELATING TO DRAINAGE DISTRICTS; AMENDING CHAPTER 29, TITLE 42, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 42-2982, IDAHO CODE, TO PROVIDE FOR PETITIONS FOR CONSOLIDATION OF CERTAIN DRAINAGE DISTRICTS, TO PROVIDE FOR EVIDENCE SHOWING CONSOLIDATION IS IN THE BEST INTERESTS OF THE DISTRICTS, TO PROVIDE FOR HEARING, TO PROVIDE FOR OBJECTIONS, TO PROVIDE FOR CONSIDERATION OF EVIDENCE, TO PROVIDE A REBUTTABLE PRESUMPTION, TO LIMIT ACTION THAT MAY BE TAKEN AT HEARING, TO PROVIDE FOR ORDERS, TO PROVIDE FOR THE APPOINTMENT OF COMMISSIONERS AND TO PROVIDE FOR THE NAME OF THE DISTRICT.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 29, Title 42, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 42-2982, Idaho Code, and to read as follows:

42-2982. CONSOLIDATION OF DISTRICTS. (1) If the boards of commissioners of any two (2) or more drainage districts formed under this chapter deem it in the best interest of their respective districts that they be consolidated into a single district, and if said districts are contiguous or lie at least in part within the same county, such boards may petition the district court of the county in which a greater portion of the lands of said proposed district are located for an order consolidating the same districts. For purposes of this section, districts may be considered to be contiguous even though they are separated by a body of water or other natural barrier so long as they are located in close proximity to each other. The petition shall be a joint petition signed by a majority of the commissioners of each respective board and attested to by the secretary of each board. The petition shall set forth a description of the lands and boundaries for the respective districts, a description of the proposed consolidated district and any facts showing that the consolidation is in the best interests of said districts.

(2) Evidence showing that the proposed consolidation is in the best interests of the districts may include, but is not limited to: that which shows that the proposed system of drainage will be conducive to providing the same benefits previously apportioned to the lands within the respective districts, enhance the functioning of the respective districts, the public health, convenience and welfare, or increase the public revenue, or that the consolidation of said districts and the said system of drainage and reclamation is a proper and an advantageous method of accomplishing the relief sought.

(3) Upon receiving a petition brought under this section, the district court shall fix a time and place for the hearing of the petition, and the time and manner of filing any objections to the petition. Said hearing shall be held no sooner than sixty (60) days and no later than one hundred twenty (120)

1 days after the first publication of notice of hearing. The clerk of the court
2 shall cause publication of such order in three (3) consecutive weekly issues
3 in a newspaper of general circulation within each county in which any of the
4 lands within the said proposed consolidated district are located; together
5 with a notice of the time and place at which the district court will consider
6 said petition for consolidation. The petitioners shall pay all costs of pub-
7 lication.

8 (4) Any person objecting to a petition for consolidation as described
9 in this section shall provide for filing of written objection with the court.
10 Only landowners within the proposed consolidated district, owners of land
11 over which the drainage water from the proposed district would flow, and
12 landowners served by any of the respective districts included in the peti-
13 tion shall have standing to file an objection to said petition. Written ob-
14 jections must be filed and served upon petitioners no later than twenty-one
15 (21) days prior to the date of the hearing. The form of the objection shall
16 be as provided in the Idaho rules of civil procedure. Each objection shall
17 identify the name of the landowner entering the objection along with the ob-
18 jecting party's address, location of the landowner's land by township, range
19 and section; identify the district or districts in which those lands lie; and
20 state the nature or description of objection and basis or reasoning for the
21 objection. Objections shall be limited to determining whether or not the
22 proposed consolidation is in the best interests of the districts.

23 (5) The judge of the court shall, at the hearing herein provided, hear
24 and consider argument from the petitioners and decide whether the proposed
25 consolidation is in the best interests of said districts. The court shall
26 then consider evidence in objection only from landowners who have filed a
27 written objection as described in subsection (4) of this section, and only
28 such evidence as may be presented for or against the petition or objections
29 thereto. The landowners who have filed written objections shall bear the
30 burden of proving that the consolidation is not in the best interests of the
31 districts. After any evidence offered in opposition to the petition, the pe-
32 titioners may offer evidence regarding the consolidation or in opposition to
33 any objections entered. Based on the agreement in the petition to consoli-
34 date by the boards of the respective districts, there shall be a rebuttable
35 presumption that the proposed consolidation of the districts is in the best
36 interests of the petitioning districts and the landowners therein, unless
37 the court finds by a preponderance of the evidence that the proposed consol-
38 idation is not in the best interests of the districts. Consolidation shall
39 not be permitted to either exclude from the consolidated district lands that
40 are within the petitioning districts or to include lands within the consol-
41 idated district that are not within the petitioning districts. The court
42 shall make its determination wholly in the affirmative or negative whether
43 said petitioning districts shall be consolidated.

44 (6) If the petition is granted, the court shall cause an order to be en-
45 tered and recorded in the judgment record of each of the counties in which
46 the lands within the consolidated district are situated, setting forth the
47 facts found upon the hearing of said petition, and said order shall define
48 the boundaries of said district and describe the lands included therein by
49 township, range and section only. The clerk of said district court shall
50 cause a copy of the order declaring said consolidated district, duly certi-

1 fied, to be filed in the office of the secretary of state. From the date of
2 said filing and thereafter, said district consolidation shall be deemed com-
3 plete.

4 (7) The court shall name the commissioners appointed by it for the
5 consolidated district pursuant to the provisions of section 42-2910, Idaho
6 Code. In appointing commissioners to the newly consolidated district, the
7 court shall consider preference to appointment of at least one (1) com-
8 missioner from each of the districts petitioning for consolidation. The
9 consolidated district shall be known and described by the name and number of
10 the largest district of those consolidated.